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Common Carrier Bureau  
Network Service Division  
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In the Matter of )

Florida Public Service Commission )  
Petitions for Additional Authority To )  
Implement Number Conservation )  
Measures )

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BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

NSD File No. L-99-33

CC DOCKET 96-98

COMMENTS OF  
THE CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION

The Cellular Telecommunications Industry Association ("CTIA")<sup>1</sup> hereby submits its comments on the petition filed by the Florida Public Service Commission ("FPSC") in the above captioned proceeding.

I. INTRODUCTION

FPSC has petitioned the Commission seeking a greater role in the area of number conservation and area code relief than the Commission prescribed in the *Pennsylvania Numbering Order*.<sup>2</sup> By requesting additional authority to implement various number conservation methods in the state of Florida<sup>3</sup>, the FPSC Petition joins other state-specific requests to recast the balance the Commission struck in the *Pennsylvania Numbering Order*. The *Pennsylvania Numbering Order* delegated to the states the critical role of

<sup>1</sup> CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers.

<sup>2</sup> Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, NSD File No. L-97-42; CC Docket No. 96-98, *Memorandum Opinion and Order on Reconsideration*, 13 FCC Rcd. 19009 (1998) ("*Pennsylvania Numbering Order*").

<sup>3</sup> *Public Notice*, Common Carrier Bureau, DA No. 99-725, (April 15, 1999), Common Carrier Bureau Seeks Comment on the Florida Public Service Commission's Petition for Authority to Implement Various Number Conservation Methods.

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providing timely and non-discriminatory area code relief and reserved to the FCC the establishment of national number conservation and efficient number utilization policies.<sup>4</sup>

CTIA opposes the FPSC Petition for the same reasons articulated by the FCC in the *Pennsylvania Numbering Order* and because CTIA strongly believes that conservation measures must be developed at the national level.<sup>5</sup>

## **II. THE COMMISSION SHOULD CONTINUE IN ITS EFFORTS TO ADOPT EFFECTIVE, NATIONWIDE NUMBERING CONSERVATION MEASURES**

The alternative to the adoption of nationwide numbering conservation solutions is a “patchwork” of individualized, local measures that would subject carriers to inconsistent state numbering administration regimes and impermissibly compromise the Commission’s exclusive jurisdiction over the North American Numbering Plan for the United States. The Commission struck an appropriate balance in the *Implementation Order* and the *Pennsylvania Numbering Order* by retaining federal authority over numbering administration, but allowing state commissions to engage in area code relief. The Commission has stated that a nationwide, uniform system of numbering is essential to the efficient delivery of interstate and international telecommunications services.<sup>6</sup> The lack of uniformity also could hamper industry efforts to forecast and plan properly for exhaust of the North American Numbering Plan.<sup>7</sup>

Indeed, the Commission’s efforts to adopt nationwide numbering conservation solutions require the cooperation and participation of state utility commissions.

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<sup>4</sup> See *Pennsylvania Numbering Order*.

<sup>5</sup> *Pennsylvania Numbering Order* at ¶¶ 21, 27, 30.

<sup>6</sup> *Ameritech Order* at ¶ 13. *Pennsylvania Numbering Order* at ¶ 21.

Permitting states to adopt individual conservation measures contrary to the conclusions reached in the Commission's Orders could interfere with the Commission's conservation efforts -- which are the subject of the pending number resource optimization proceeding.<sup>8</sup> As the Commission concluded in the *Pennsylvania Numbering Order*, "[i]n delegating authority to the state commissions to implement new area codes, we intended that state commissions would use that authority to implement relief when jeopardy has been declared."<sup>9</sup> Thus, the Commission's Orders clearly establish the role of states in area code relief, distinguishing and reserving number conservation responsibility to the FCC.<sup>10</sup>

FPSC requests additional authority to fashion a "Florida specific solution" to its numbering crisis: (1) institute 1,000 block (and perhaps 100 block) number pooling;<sup>11</sup> (2) implement sharing of NXX codes in rate centers; (3) revise rationing measures and institute NXX lotteries (prior to adoption of area code plans or establishment of an area code relief date) to prolong the life of existing area codes; (4) reclaim unused and reserved central office codes; (5) maintain the current central office code rationing measures for at least six months after the implementation of all area code relief plans; (6) expand deployment of permanent number portability; (7) implement unassigned number

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<sup>7</sup> *Pennsylvania Numbering Order* at ¶ 21.

<sup>8</sup> *Numbering Resource Optimization Proceeding*, NSD File No. L-98-134.

<sup>9</sup> *Pennsylvania Numbering Order* at ¶¶ 25-26 & 32.

<sup>10</sup> *Id.* at ¶¶ 20-39.

<sup>11</sup> CTIA assumes that the FPSC seeks authority to order thousand block number pooling by all telecommunications carriers. FPSC's Petition does not clarify that participation would be voluntary or otherwise exempt carriers which are not LNP capable. See FPSC Petition, filed April 2, 1999, NSD File No. L-99-33, at 3. In the *Pennsylvania Numbering Order*, the Commission stated that state-ordered pooling trials were not prohibited so long as the trials were voluntary. *Pennsylvania Numbering Order* at ¶ 30.

porting; and (8) implement rate center consolidation.<sup>12</sup> Many of FPSC's requests are currently under consideration by the Commission in the pending Numbering Resource Optimization proceeding. Granting states the authority to perform conservation measures currently under consideration by the Commission would interfere with the development of uniform conservation solutions and is inappropriate at this time. These measures are not without controversy, and their potential efficacy as conservation measures is currently being explored by the FCC. FPSC's petition also runs afoul of the Commission's recent efforts to develop a new set of uniform, national guidelines for carrier requests for numbering resources upon reaching a prescribed utilization threshold.<sup>13</sup>

Additionally, FPSC requests permission to use the Line Number Utilization Survey (LINUS) to run NXX reports quarterly. FPSC also requests that the FCC direct NANPA to: (1) update the Central Office Code Utilization Survey (COCUS) report quarterly, instead of annually, to provide much more current basis for planning area code relief; and (2) establish code allocation standards to more efficiently manage numbering resources. Finally, FPSC requests authority to require wireless carriers to provide COCUS information and "other information necessary for FPSC to carry out its responsibilities."<sup>14</sup> CTIA believes that changes to the way the NANPA gathers information, including the appropriate intervals for doing so, is best addressed by the NANC, with full participation by the industry and state representatives.

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<sup>12</sup> FPSC Petition at 3-5.

<sup>13</sup> See In the Matter of Cellular Telecommunications Industry Association's Petition for Forbearance from CMRS Number Portability Obligations, WT Docket No. 98-229, CC Docket No. 95-116, *Memorandum Opinion and Order*, rel. February 9, 1999, at ¶¶ 46-48.

<sup>14</sup> FPSC Petition at 5.

### **III. CMRS CARRIERS MUST NOT BE REQUIRED TO DEPLOY LNP PREMATURELY**

To the extent that the FPSC Petition requests authority to institute conservation measures locally which require wireless carriers to deploy LNP capability, the petition must be denied.<sup>15</sup> The Commission noted in its February 9, 1999, Order granting CTIA's forbearance petition that the wireless industry needs additional time to develop and deploy the technology that will allow viable implementation of service provider portability, including the ability to support seamless nationwide roaming.<sup>16</sup> In order for LNP to be viable in the wireless context, *every* wireless switch has to be LNP capable, otherwise roaming will not be possible. Thus, as the Commission has recognized, "local" conservation measures which require LNP capability would affect the wireless industry on a national scale and would prejudice efforts by the FCC to develop national, uniform conservation solutions. In this regard, there is no separation of local and national conservation methods.

As explained in footnote eleven, CTIA assumes that FPSC's request is for mandatory authority over all telecommunications carriers. Number pooling requires LNP capability. A Staff Memorandum to the Chairman of the FPSC states, " Staff believes that Florida's unique situation creates a need for immediate number conservation measures. It is staff's belief that wireless carriers could overcome the technical burdens around the same time as local number portability (LNP) is implemented throughout the

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<sup>15</sup> See footnote 11.

<sup>16</sup> Id. at ¶ 25.

State of Florida.”<sup>17</sup> CTIA strongly objects to efforts to roll-out wireless LNP in a piecemeal fashion in individual states and in advance of any national effort.

CTIA does not object to state conservation plans, like those of the state of Illinois, that provide wireless carriers with access to numbering resources without requiring wireless carriers to support thousand block pooling or unassigned number porting. Conservation measures which require all carriers to have LNP capability necessarily disadvantage and discriminate against the wireless industry, which has implementation issues that are very different from wireline carriers. For that reason, the Commission has determined that requests to institute mandatory pooling trials are discriminatory.<sup>18</sup> Such requests must be denied.

FPSC also requests authority to implement unassigned number porting (“UNP”). Because UNP requires LNP capability, it is objectionable for the same reasons that led the Commission to decline to impose 1,000 block pooling on wireless carriers. Commentors in other state proceedings have questioned whether UNP is even a “conservation measure.”<sup>19</sup> The practical disadvantages of UNP are stated in the NANC Report on Number Resource Optimization (“NRO report”).<sup>20</sup> UNP may encourage the “mining” of desirable numbers from a carrier’s inventory without the carrier’s consent. UNP rewards carriers who are less efficient users of numbering resources at the expense of those carriers which efficiently manage and use their numbering resources—and who

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<sup>17</sup> Staff Memorandum to FPSC Chairman Joe Garcia, March 24, 1999, at 9.

<sup>18</sup> See *Pennsylvania Numbering Order* at ¶¶ 40-41.

<sup>19</sup> See US West Comments, filed May 4, 1999, File No. NSD-L-99-27, at 2, footnote 5.

<sup>20</sup> See Number Resource Optimization Working Group Modified Report to the North American Numbering Council on Number Optimization Methods (October 21, 1998) at 129-130.

have a legitimate business and operational need for a certain level of numbers in their inventory.

UNP also would cause CMRS providers to be less efficient users of numbering resources. The wireless industry simultaneously experiences both a high degree of churn and high net growth. These marketplace realities, coupled with system requirements which demand reserve numbers be available for operations and billing integrity, *e.g.*, for aging and roaming, would necessarily require CMRS providers to request larger quantities of numbers in order to meet consumer demand. Removing blocks of unused numbers from CMRS inventories and porting them to other carriers would have the unintended consequence of making it impossible for CMRS carriers to meet their own customer demand.

Further, UNP is incompatible with unique wireless operations, distribution channels and marketplace expectations. Specifically, UNP would not permit CMRS carriers' to offer customers instant activation; UNP does not recognize numbers which are system reserved for roaming; UNP would negatively impact the aging of disconnected numbers which is important for the protection of billing integrity for roaming; and UNP would create serious dislocations to the competitive distribution channels used by the wireless industry by adding additional layers of cost and complexity to their operations.

#### **IV. THE RELIEF REQUESTED BY FPSC WILL NOT PREVENT EXHAUST OF FLORIDA AREA CODES CURRENTLY IN JEOPARDY**

The NANPA has declared extraordinary jeopardy in the 305, 561, 941 and 954 area codes.<sup>21</sup> Florida's situation reflects the natural consequence of issuing telephone numbers in 10,000 blocks to an increasing number of local telephone exchange competitors establishing a presence in every rate center. Unfortunately, none of the solutions under consideration by the states and the FCC will prevent the exhaust of area codes currently in jeopardy. As the FCC recognized in the *Pennsylvania Numbering Order*, conservation measures are more effective when there are unassigned resources available to conserve, and not as effective when resources are already assigned.<sup>22</sup> FPSC's Petition indicates that the codes are being assigned rapidly, in advance of NANPA's original projections.<sup>23</sup> CTIA believes that the FPSC already has the authority to implement the best solution for underutilized 10,000 number blocks caused by the entry of new local exchange competitors, and that is rate center consolidation.

FPSC also makes the argument that it should enjoy similar regulatory treatment as California—albeit for a *Florida specific numbering crisis which requires a Florida specific solution*. Citing comparable circumstances with those in California, the FPSC notes that the FCC granted temporary authority to the California Commission ("CPUC") to continue to conduct its measures implementing code relief. Specifically, by letter dated December 1, 1998, the Common Carrier Bureau temporarily granted authority to the CPUC to continue to conduct its monthly lottery and to resolve disputes among

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<sup>21</sup> FPSC Petition at 2.

<sup>22</sup> See *Pennsylvania Numbering Order* at ¶ 29.

<sup>23</sup> FPSC Petition at 2.

industry participants pertaining to the terms and conditions of NXX code rationing.<sup>24</sup>

The FCC subsequently issued a Public Notice requesting comments on CPUC's Petition.<sup>25</sup> The narrow grant of temporary authority to California to continue to conduct monthly NXX code lotteries and to resolve industry disputes regarding the terms and conditions of the lottery is a far cry from the expansive authority requested by the FPSC Petition.

## V. CONCLUSION

Rather than seeking additional authority to perform number administration functions on an *ad hoc* basis at the state level, state commissions should provide timely area code relief as prescribed by the Commission's Orders. The Florida area codes require immediate relief.

There is no impediment preventing the states from using the tools available to them – area code splits, non-service specific overlays, and rate center consolidation – to provide carriers with the numbering resources they need to fulfill the Congressional mandate of a competitive communications marketplace.

Florida and the other states which have petitioned the FCC for greater authority over the administration and assignment of numbering resources are concerned about code exhaust in their jurisdiction. However, the appropriate remedy for the most efficient utilization of the nation's numbering resources is the FCC's national approach, which will address the efficient use of both NPA's as well as NXX codes for *all* states and will benefit *all* consumers.

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<sup>24</sup> *Public Notice*, Common Carrier Bureau, DA No. 99-108, (January 6, 1999), Common Carrier Bureau Seeks Comment On A Petition Of The California Public Utilities Commission And The People Of The State Of California For An Additional Delegation Of Authority To Conduct NXX Code Rationing.

The FCC was correct to assign the important function of timely area code relief to the states, while reserving to itself the development and adoption of number conversation mechanisms that require a national solution to be effective.<sup>26</sup> CTIA is committed to working with the Commission to adopt effective, nationwide numbering conservation plans. To that end, CTIA supports requiring all carriers to meet a national, uniform fill ratio before obtaining additional numbering resources. CTIA urges the Commission to adopt rules that provide all carriers with the flexibility they need to meet this threshold most efficiently, and to avoid imposing one size fits all solutions, such as thousand block pooling. For the foregoing reasons, the FPSC Petition should be denied.

Respectfully submitted,



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<sup>25</sup> Id.

<sup>26</sup> The difficulties the states have encountered implementing timely area code relief, which remains solely within their control, suggests that number conservation, which will require national solutions, is most appropriately addressed by the Commission.